

AMENDED IN ASSEMBLY SEPTEMBER 2, 2003

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN ASSEMBLY JULY 3, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 28, 2003

## SENATE BILL

**No. 551**

**Introduced by Senator Speier**  
(Coauthor: Assembly Member Lieber)

February 20, 2003

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An act to add Section 758.5 to the Insurance Code, relating to auto insurance.

### LEGISLATIVE COUNSEL'S DIGEST

SB 551, as amended, Speier. Insurance: automotive repair dealers.

Existing law generally regulates insurers by, among other things, defining certain unlawful practices.

This bill would codify existing regulatory law and would prohibit an insurer from requiring that an automobile be repaired at a specific *automotive repair shop dealer, as defined*. It would also prohibit an insurer from suggesting or recommending that an automobile be repaired at a specific ~~repair shop~~ *automotive repair dealer* unless the claimant requested the referral or the claimant is informed, in writing, of his or her rights, as specified. This bill would also require the insurer, if the suggestion or recommendation that an automobile be repaired at a specific ~~repair shop~~ *automotive repair dealer* is contained in the insurance contract, to disclose that provision, in writing at specified

times, and ~~would prohibit the insurer, if the insured chooses that repair shop, not limit or discount the automotive repair dealer, from limiting or discounting~~ the reasonable repair costs, as specified.

*The bill would grant the Insurance Commissioner specified enforcement powers with respect to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 758.5 is added to the Insurance Code, to  
2 read:

3 758.5. (a) No insurer shall require that an automobile be  
4 repaired at a specific ~~repair shop~~ *automotive repair dealer, as*  
5 *defined in Section 9880.1 of the Business and Professions Code.*

6 (b) (1) No insurer shall suggest or recommend that an  
7 automobile be repaired at a specific ~~repair shop~~ *automotive repair*  
8 *dealer unless either of the following applies:*

9 ~~(1)~~

10 (A) A referral is expressly requested by the claimant.

11 ~~(2)~~

12 (B) The claimant has been informed in writing of the right to  
13 select the ~~repair facility and~~ *automotive repair dealer.*

14 (2) *If the recommendation is accepted by the claimant, the*  
15 *insurer shall cause the damaged vehicle to be restored to its*  
16 *condition prior to the loss at no additional cost to the claimant other*  
17 *than as stated in the policy or as is otherwise allowed by law. If the*  
18 *recommendation of a* ~~repair shop~~ *an automotive repair dealer is*  
19 *done orally, and if the oral recommendation is accepted by the*  
20 *claimant, the insurer shall provide the information contained in*  
21 *this paragraph, as noted in the statement below, to the claimant at*  
22 *the time the recommendation is made. The insurer shall send the*  
23 *written notice required by this paragraph within five calendar days*  
24 *from the oral recommendation. The written notice required by this*  
25 *paragraph shall include the following statement plainly printed in*  
26 *no less than 10-point type:*

27 “WE ARE PROHIBITED BY LAW FROM REQUIRING THAT  
28 REPAIRS BE DONE AT A SPECIFIC ~~REPAIR SHOP~~  
29 *AUTOMOTIVE REPAIR DEALER. YOU ARE ENTITLED TO*  
30 *SELECT THE AUTO BODY REPAIR SHOP TO REPAIR*

1 DAMAGE COVERED BY US. WE HAVE RECOMMENDED-A  
2 ~~REPAIR SHOP AN AUTOMOTIVE REPAIR DEALER THAT~~  
3 WILL REPAIR YOUR DAMAGED VEHICLE. ~~AS YOU HAVE~~  
4 ~~AGREED IF YOU~~ AGREE TO USE OUR RECOMMENDED  
5 ~~REPAIR SHOP AUTOMOTIVE REPAIR DEALER~~, WE WILL  
6 CAUSE THE DAMAGED VEHICLE TO BE RESTORED TO  
7 ITS CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL  
8 COST TO YOU OTHER THAN AS STATED IN THE  
9 INSURANCE POLICY OR AS OTHERWISE ALLOWED BY  
10 LAW. IF YOU EXPERIENCE A PROBLEM WITH THE  
11 REPAIR OF YOUR VEHICLE, PLEASE CONTACT US  
12 IMMEDIATELY FOR ASSISTANCE.”

13 (c) *Notwithstanding subdivision (b), after the claimant has*  
14 *chosen an automotive repair dealer, the insurer shall not suggest*  
15 *or recommend that the claimant select a different automotive*  
16 *repair dealer.*

17 (d) Any insurer that, by the insurance contract, suggests or  
18 recommends that an automobile be repaired ~~in a particular repair~~  
19 ~~shop~~ *at a particular automotive repair dealer* shall also do both of  
20 the following:

21 (1) Prominently disclose the contractual provision in writing to  
22 the insured at the time the insurance is applied for and at the time  
23 the claim is acknowledged by the insurer.

24 (2) If the claimant elects to have the vehicle repaired at the shop  
25 of his or her choice, the insurer shall not limit or discount the  
26 reasonable repair costs based on charges that would have been  
27 incurred had the vehicle been repaired by the insurer’s chosen  
28 shop.

29 (e) *For purposes of this section, “claimant” means a first party*  
30 *claimant or insured, or a third party claimant who asserts a right*  
31 *of recovery for automotive repairs under an insurance policy.*

32 (f) *The powers of the commissioner to enforce this section shall*  
33 *include those granted in Article 6.5 (commencing with Section*  
34 *790) of Chapter 1 of Part 2 of Division 1.*